IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Revision No. 2506 of 2005

Date of decision: 19-12-2006

Parkash Chand **..... Petitioner.**

v.

Hardip Singh **..... Respondent.**

CORAM: HON'BLE MR. JUSTICE P.S. PATWALIA

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Present:- Mr. Salil Sagar, Advocate
for the petitioner.

Mr. Onkar Singh, Advocate
for the respondent.

P.S. PATWALIA, J. (ORAL)

The present revision petition has been filed challenging order dated March 29, 2005 whereby an application under Order VI Rule 17 CPC filed by the petitioner, plaintiff in the suit, has been dismissed. Plaintiff had filed the suit for permanent injunction restraining the defendant from interfering in his use and enjoyment of the premises which is a shop. It is his contention that the defendant who was the landlord had forcibly put his locks in the said shop. In response to the suit, the landlord had contended that in fact the petitioner was in arrears of rent. It was therefore that he had himself delivered possession of the shop in April, 2004 voluntarily and the amount of security has been adjusted towards arrears of rent. On these allegations an application for interim injunction filed by the petitioner was declined and appeal against the same was rejected. It is thereafter that the

present application was filed by the petitioner seeking amendment of the plaint. By way of amendment, the petitioner wished to plead that during the pendency of the suit he had been dispossessed by the respondent.

The trial Court has declined the amendment after noticing that in case the same is now allowed it would amount to permitting the plaintiff to withdraw the admissions made by him in the plaint as originally filed. I may notice that the suit was filed in May, 2004 after April, 2004 when, according to the respondent, plaintiff had himself handed over the possession of the shop. The stand of the defendant from the outset has been that the plaintiff had himself handed over the possession of the shop. Learned counsel for the respondent further states that the suit is at the stage of defendant's evidence and except for one witness who is to be examined the entire evidence of the defendant is also complete. I am of the opinion that permitting amendment at this stage would resultantly amount to a retrial of the suit. Additionally I am also of the opinion that permitting the amendment at this stage would completely change the nature of the pleadings and would also amount to withdrawal of earlier admissions made by the plaintiff.

Additionally I may notice as has also noted by the trial Court that the averments made in the amended plaint were totally vague. A bald statement has been made by the plaintiff that the plaintiff has been dispossessed during the pendency of the suit. It has not been stated therein as to when he was actually dispossessed or how the same was done. This additional factor has also rightly weighed with the trial court in declining the amendment.

For the reasons aforementioned, I find no merit in this revision petition and the same is accordingly dismissed.

December 19, 2006 **(P.S. PATWALIA)**
dinesh **JUDGE**